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BASIC
SSA Pub. No. 68-0202601
October 20, 1981

Audience: BA, BATA, CA, SR, CLADJ, RECOVR, EHIS, CR, HIIE, DC, DRT, IES, FR, CRTA

Originating Office: OIP, OURV

PROGRAM OPERATIONS MANUAL SYSTEM

Part 2—General

Chapter 026—Posteligibility

Subchapter 01—Introduction

New Material	*No. of Pages*
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Background

This basic places general instructions on Posteligibility in the Program Operations Manual System (POMS). It is being issued as part of the effort to gather all Posteligibility material from all operating manuals identified for POMS conversion into one central point. This material has been rearranged and consolidated and duplication has been eliminated where possible. These instructions introduce and summarize the current policies and procedures governing the suspension, adjustment, termination and reinstatement of title II benefits.

This first subchapter includes a Table of Contents for all the subchapters in the Posteligibility Chapter. This is included for your convenience in locating material in other subchapters.

NEW POMS MATERIAL - DELAYED IMPLEMENTATION

CAUTION: The material contained in this transmittal is not effective until notification from Central Office. Delayed implementation is necessary to ensure that this new POMS transmittal and transmittals discarding material converted from the former manuals are in place before effectuation. A teletype will be utilized to effectuate these related transmittals.

DO NOT FILE OR IMPLEMENT THIS INSTRUCTION UNTIL FURTHER NOTICE

U.S. Department of Health and Human Services
Social Security Administration
Office of Operational Policy and Procedures
SSA Pub. No. 68-0202601
I.C.N. 996533

Effective Date: Upon Notification

EFFECTIVE IT 308-81

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Explanation of Manual Changes

Source of Material

The new POMS subchapter consolidates material from the Claims Manual, Posteligibility Manual and Service Representative Handbook. Included is a conversion chart which lists the old references and their location within the new subchapter.

The only changes introduced by these POMS instructions are changes to conform current language to certain of the changes enacted by the Social Security Amendments of August 1981.

These instructions continue essentially unchanged in the transition to POMS, except for deletion of any duplicate instructions and the appropriate updating of form numbers, bureau names, cross-references, etc. No new instructions have been added.

02601.100 Mission of the Post-Entitlement Technician

This is an exact duplication of PEM 100. (PEM 100 is not being deleted from the Post-Entitlement Manual at this time because of the material still remaining in chapter 100.)

02601.280 Definitions Related to Post-Entitlement Determinations

This section combines various definitions pertaining to the post-entitlement area that were formerly in the CM, PEM and SRH.

POMS

PROGRAM OPERATIONS MANUAL SYSTEM
Part 02
General

Chapter 026
Posteligibility
Subchapter 01
Introduction

U.S. Department of Health and Human Services
Social Security Administration
Office of Operational Policy and Procedures
SSA Pub. No. 0202601
I.C.N. 996533

Check List of POMS Transmittals Received

TN	Date	Initial	TN	Date	Initial	TN	Date	Initial	TN	Date	Initial
1			37			73			109		
2			38			74			110		
3			39			75			111		
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145			181			217			253		
146			182			218			254		
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Subchapter 01 - Introduction

Claims Manual (CM) Reference	*POMS Reference*
CM 5003	GN 02601.280 G.
CM 5010	GN 02601.020
CM 5011	GN 02601.021
CM 5012	GN 02601.022
CM 5013	GN 02601.023
CM 5015	GN 02601.024
CM 5016	GN 02601.025
CM 5017	GN 02601.026
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CM 5020	GN 02601.029
CM 5020.5	GN 02601.030
CM 5021	GN 02601.031
CM 5022	GN 02601.032
CM 9700	GN 02601.040
CM 9702	GN 02601.060
CM 9703	GN 02601.075

Post Entitlement Manual (PEM) Reference	*POMS Reference*
PEM 100 (2nd and 4th paragraphs and 1st, 2nd and last sentences of 3rd paragraph)	Deleted
PEM 100	GN 02601.100
PEM 200	GN 02601.115
PEM 200.01	Deleted
PEM 200.02	GN 02601.155
PEM 210	GN 02601.190
PEM 211	GN 02601.280 A.-D.
PEM 255.01	GN 02601.280 E.
PEM E230.01	GN 02601.280 F.
PEM E235.01	GN 02601.280 H.
PEM 280	GN 02601.220
PEM 285	GN 02601.240

Service Representative Handbook (SRH) Reference	*POMS Reference*
SRH 1630	Deleted

GN 02601.000 Introduction

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02601.000 INTRODUCTION

Due Process In Posteligibility Actions

02601.020 General Policy Statement

AUDIENCE: *FR, SR, CR, CA, CRTA, BA, BATA, IES, RECOUR*

Notwithstanding the large numbers of beneficiaries that SSA serves, each merits expert help. Social security payments are an important consideration in most lives. The beneficiary has a right to expect courteous, prompt and correct handling of his case irrespective of whether SSA is paying, interrupting or terminating benefits. Care must be exercised to stop payment only when (and in the manner) authorized by the Act and then to see that the beneficiary (or his representative payee) receives meaningful notice of the action taken, the basis for the action, and his rights to relief and appeal under the law. The beneficiary (or his representative payee) must be told of the "good cause" provision before a penalty is imposed, of the waiver provision when an overpayment is found, of his reconsideration rights when any initial determination is made, and of his appeal rights when any reconsideration is given. For due process involving disability benefits see DQM 550.

An improper withholding or reduction of monthly benefits can cause considerable hardship for those beneficiaries who depend on benefit payments for their livelihood. It is SSA's objective to pay promptly all benefits that are due. Conversely, once a disqualifying event is clearly established, failure to withhold benefits would no less conflict with SSA's objectives of promptness and accuracy and would not be in the best interest of the beneficiary. The dual objectives of promptness and accuracy – the right check, to the right person, at the right address, on time – are the very essence of our service.

SSA's basic approach to prompt suspension, termination, or reduction action is tied to our reliance on voluntary reporting. Unless there is evidence to the contrary, if the individual, his representative payee, or his agent (see GN 02602.125 D.) reports an event which requires suspension, termination, or reduction, we assume that the individual is aware of the impact of the report and immediate action may be taken. If the event is reported by a third party or is discovered by SSA, no cessation of payment may occur until the beneficiary has been contacted and the event verified.

Exceptions to this basic rule occur only when:

A. The Beneficiary dies;

B. A check is undeliverable because of lack of a proper address to which checks can be mailed;

C. The representative payee dies or refuses to serve and a new payee is not immediately available;

D. There is an incorrect multiple benefit paid; or

E. An incorrect benefit rate exists (unless the correction stops payment altogether). See GN 02602.210B.

02601.021 Background

AUDIENCE: *CR, FR, CA, CRTA, RECOUR*

A. Property Right

The Fifth Amendment to the Constitution provides that no person shall be deprived of property without due process of law. The interest of an individual in continued receipt of social security benefits is a statutorily created "property" interest protected by the Fifth Amendment.

The Social Security Administration has always believed that it does extend due process in its policies and procedures. The Social Security Act and regulations provide a detailed appeal procedure where a beneficiary disagrees with an SSA decision. This procedure is an after-the-fact concept in that the beneficiary appeals an action *after* the action has been taken. The more recent court-mandated concept of due process requires judicial proceedings which afford an opportunity to be heard *before* the issue is decided.

B. Court Case Decisions

Perhaps the most important court case in terms of "due process" as it relates to benefit programs was *Goldberg* v. *Kelly*. This Supreme Court decision was handed down on March 23, 1970, and, in combination with subsequent court cases, introduced to governmental benefit programs the concept that benefits could not be stopped or reduced without first offering an oral hearing to the individual. The case involved several New York welfare recipients whose benefits had been cut off. The court dwelt heavily on the concept that welfare recipients depend upon their benefits for their survival. While the Supreme Court did not address insurance-type programs such as social security directly, it did recognize the distinction between a non-need related program such as social security and need-related programs such as the welfare programs.

The Social Security Administration was not immediately affected by the *Goldberg* v. *Kelly* decision, but did feel the impact when it began administering the supplemental security income (SSI) program. In establishing SSI, SSA set up an appeal procedure and a process of sending advance notice to the recipient *before* taking an adverse action. It was felt that this procedure complied with the *Goldberg* v. Kelly concept of due porcess while retaining cost effectiveness by taking immediate action to adjust payments on the basis of personally reported events as well as those events which resulted from clear-cut changes in the law, obvious clerical errors, and re-

ports of death. *Cardinale* v. Mathews, struck down most of these exceptions to advance notice in the SSI program.

Meanwhile, the non-welfare (or insurance) programs administered by SSA (retirement, survivors, and disability benefits), have also been under attack on essentially the same basis. Many courts have sought to apply the *Goldberg* v. *Kelly* principle to the social insurance programs.

The *Buffington-Biner* case seeks to require SSA to provide the opportunity for face-to-face hearings *before* action is taken to withhold or reduce benefits payable to recover an overpayment. Previously, SSA had provided for advance notice of the proposed withholding action, giving the basis for the determination of overpayment, and opportunity to question its correctness and/or seek relief from repayment before initiating recoupment. Opportunity for hearing was afforded after the withholding action was determined appropriate as a result of a "paper review." However, certain lower courts held that such process did not sufficiently fulfill the concept of due process expounded in *Goldberg* v. *Kelly*.

Another major case, *Eldridge* v. *Weinberger*, centered on SSA's ability to terminate disability benefits without oral hearing where there is evidence of medical recovery. The Supreme Court in this case has ruled that SSA's policy of providing notice of cessation of disability on the basis of medical recovery and the opportunity to present evidence in writing *before* the termination action is taken, with further opportunity for oral hearing *after* the termination of benefits, is sufficient "due process".

C. Summary

The question in due process is: At what point has the individual had enough input into the decision in his case that it is proper to proceed to effectuate the decision? In administering title II benefits, SSA has taken the view that each individual must be given his opportunity to submit evidence before benefits are stopped or reduced. At the same time, such action should be taken as early as possible to insure that incorrect moneys are not paid out at the expense of the individual himself (who must ultimately pay back the erroneously paid amount) or at the expense of the contributors to the SSA trust fund (who must bear the cost of erroneous payments which cannot be recovered).

For many years, SSA's operating philosophy has been that a full explanation of an individual's rights and responsibilities under the Social Security Act, as well as the events which would cause loss or reduction of benefits, must be given at the time of initial application and through subsequent periodic reminders. With this principle in mind, it is SSA's policy to assume that when a person advises the agency of an event or change that would reduce or stop benefits (e.g., I have remarried, I am working, I have dropped out of shcool) that he knows what effect that report will have on his benefit and that the report is actually a request for SSA to take the proper action. Because of this assumption, SSA must also make sure that the beneficiary always received a prompt notice explaining any suspension/termination/reduction action taken as well as complete information concerning his appeal rights.

02601.022 Difference in Due Process Procedures Between Title II and Title XVI

AUDIENCE *CR, FR, CA, CRTA, RECOUR*

"Due process" procedures of RSI beneficiaries are different from the procedures used in the title XVI for SSI recipients. Title XVI payments involve welfare recipients and the *Goldberg* v. *Kelly* procedures calling for continuation of payments pending a reconsideration have been mandated by the courts. Title II benefits are not welfare needs-related and the *Goldberg* v. *Kelly* procedures involving continuation of payment pending appeal do not apply.

The two major differences in the due process procedures between title II and title XVI are: 1. First-party reports which require a suspension, termination, or reduction action do not require any advance notice in title II. Advance notice is required even in first-party reports for title XVI cases. 2. Continuation of payment pending reconsideration is required in title II cases *only* where recoupment of an overpayment by withholding of benefits is involved. Otherwise, even in disputed issues where an informal advance notice is given, benefits are stopped once the investigation or development is completed and a determination is made calling for a suspension, termination, or reduction action. Benefits are not continued or reinstated if a subsequent request for reconsideration is filed. In title XVI cases, benefits are continuted or reinstated when a request for reconsideration (or hearing) is filed.

02601.023 Rules for Stopping or Reducing Title II Benefits

AUDIENCE *CR, FR, SR, CA, CRTA, RECOUR, BA, BATA, IES*

A. Basic Rules

There are two basic rules for stopping or reducing payments:

1. PAYMENTS MAY NOT BE STOPPED OR REDUCED WITHOUT THE BENEFICIARY'S PRIOR KNOWLEDGE

Payments to a beneficiary, and any affected auxiliary beneficiaries receiving on the same SSN, may be stopped or reduced immediately upon receipt of information re-

quiring such action ONLY if the beneficiary (or his representative payee or agent) reported the information. Unless there is evidence to the contrary, it can be assumed that he understands the impact of his own report and is, in effect, asking SSA to take such action. See GN 02601.027 for definition of a valid first-party report.)

The beneficiary must always be contacted and advised of any reports or evidence in the possession of SSA of which he/she is unaware and which could be cause for suspension/termination/reduction before any action may be taken on the basis of such report or evidence. If the beneficiary disputes that the reported event actually occurred, the DO must make a determination on the issue and give a written informal notice (without appeal rights) to the beneficiary *before* taking any suspension/termination/reduction action. Without such written advance notice, the beneficiary might not be aware of and expecting the action taken (see B. below) for the exceptions to this rule. In addition, after the suspension/termination/reduction action is taken, the beneficiary must receive from the reviewing office the formal notice which carries a full explanation of the action and explains the appeal rights (see GN 02601.024)

If, in error, benefits are stopped or reduced prior to the required informal written advance notice, such benefits must be reinstated if the beneficiary questions the action. The proper advance notice must then be given before benefits may again be stopped.

The above rule means that there is no "suspension pending investigation." Suspension actions may be taken immediately only on first-party reports which clearly establish a suspension, deduction, or termination event or as a result of a determination made after an investigation. If an investigation results in a determination establishing a suspension, deduction, or termination event, the beneficiary must be informally notified and given an opportunity to submit evidence to contest our findings before payments are interrupted.

2. THE BENEFICIARY MUST BE ADVISED IN WRITING OF THE ACTION, THE BASIS FOR SUCH ACTION, HIS APPEAL RIGHTS, AND WAIVER PROVISION IF AN OVERPAYMENT HAS BEEN MADE

A single formal written notice issued by the reviewing office may be given *after* the suspension/termination/reduction action is taken if the beneficiary, his representative payee, or agent made the report which is the basis for the action and there is no indication that he does not understand its impact. See GN 02601.024 for notice requirement. In this case, the beneficiary has prior knowledge of the action and the suspension/termination/reduction is not unexpected.

B. Exceptions to Basic Rules

There are five exceptions to the basic rules in A. above. These are situations involving:

1. Death of the beneficiary. (See GN 02602.150)
2. Check is undeliverable (returned by the post office; SSA cannot locate an individual at the address on record; or only address available is to a barred-payment country) (see CM 3862–CM 3863 and GN 02602.065 for resuming payment when new address is given).
3. Death of representative payee; representative payee refuses to serve; or beneficiary is legally incompetent and a representative payee is not immediately available or, when interruption of payment to a representative payee is necessary because there is strong evidence of misuse and a substitute payee is not immediately available (see GN 00504.020, GN 00504.030, GN 00504.225, GN 00504.230, GN 00504.250 and GN 02602.165 for development required).
4. Termination of an erroneous multiple benefit (e.g., interface notice of receipt of SSA payments causes suspension of a special age-72 RSI beneficiary at 65 but in error the DIB is not terminated when the RSI benefit is certified). Upon discovery, the incorrect payment may be terminated immediately and the notice explaining the action may be sent after the termination action. Any overpayment must be handled under standard overpayment procedures which require advance notice before recoupment by offset.
5. SSA-uncovered errors in benefit rates. An incorrectly computed benefit rate may be adjusted immediately and the notice explaining the action may be sent after the action is taken so long as the adjustment does not stop payment altogether. However, any overpayment resulting from such discovery must be handled under standard overpayment procedures which require advance notice before recoupment by offset.

This means that a benefit rate error may be adjusted without an advance notice, so long as the beneficiary continues to receive some monthly benefit. However, payment may *not* be stopped completely (leaving the beneficiary without any benefit) without an advance notice explaining the proposed action. Such cases should be rare, but if they occur, the reviewing office must defer the adjustment action until the beneficiary has been notified. Such reviewing office notice must contain an explanation of the beneficiary's right to reconsideration.

In the above five situations only, benefits may be stopped or adjusted immediately even though such action is not the result of a first-party report. The reason for immediate interruption in items 2. and 3. above is that payment cannot be delivered because of the lack of a proper address or payee to whom payment can be delivered. There has not been a determination that the beneficiary is not entitled to the payment in the address or payee situation and payment must be resumed as quickly as possible.

NOTE: *A report of a move outside the United States by an alien beneficiary or a special age-72 payment recipient will be handled under the basic rules. If the report is a first-party*

report suspension action may be taken immediately, if appropriate. If it is a third-party report, payment may not be suspended until the beneficiary has been put on notice (GN 02601.028). In this situation, payment is continued to the old U.S. address of record and notice of our intent to stop payment will be sent to the old address. If a check is returned by the post office as undeliverable because the beneficiary has moved with no forwarding address or the only address available is in a country to which payment is barred, payment must be suspended immediately as an undeliverable check. Notice of such action will then be sent to the address in the barred-payment country (see CM 5609 and 3622). Follow procedures in GN 02602.640 if the notice of a move outside the U.S. comes from the Immigration and Naturalization Service.

The above procedures covering suspensions, terminations, and adjustments apply only to title II benefits. Procedures involving suspensions and terminations of title XVI (SSI) payments are found in CM 13300ff.

02601.024 Notice Required When Benefit is Stopped or Reduced

AUDIENCE: *CR, FR, SR, CA, CRTA, RECOUR, BA, BATA, IES*

A formal written notice of the determination to stop or reduce benefits *must* be given to the beneficiary or his/her representative payee in every case. The notice, which is sent by the reviewing office after the action has been taken (key in, manual summarization, etc.), must explain the determination made, the basis for the determination (what facts, information, evidence, was used in arriving at the determination), and the effect of the determination on the benefits, as well as an explanation of the appeal rights applicable to that determination.

If the determination to stop or reduce benefits is an initial determination (as defined in CM 7051, 7105,7105.3), notice of the claimant's right to reconsideration must be given. Whenever it appears a penalty may be required, the beneficiary must be informed of the penalty and good-cause provisions. When the decision with respect to good cause and the determination as to penalty is made, the beneficiary must be so notified in writing and informed of his right to reconsideration.

Very often a beneficiary reports or SSA discovers or processes a suspension/termination/reduction event after the event occurred. When this happens, an overpayment is established. The notice of the suspension/termination/reduction in such case will also include notice of the overpayment as described in GN 02201.055. In every case involving an overpayment, the beneficiary must be told of his right to reconsideration of the overpayment determination and of the waiver provision and of the availability of partial adjustment or refund by installment. If the beneficiary appeals or requests waiver, partial adjustment, or refund by installment, he must be further notified of the decision on that issue(s).

The formal notice required in every case concurrent with or after the action to stop or reduce benefits is in addition to any beneficiary contact or due process notice required before the action to stop or reduce benefits may be taken (see GN 02601.028 D.)

02601.025 Types of Reports Received Indicating Suspensions, Terminations, or Reductions

AUDIENCE: *CR, FR, ST, CA, CRTA, RECOUR, BA, BATA, IES*

There are three types of reports received by SSA which may require a suspension/termination/reduction action or indicate the need for further development to determine if such action is needed.

A. First-party Reports

See GN 02601.026

B. Third-party Reports

See GN 02601.028.

C. Events Uncovered By SSA Which Were Not Reported By a First Party or a Third Party (GN 02601.031).

Immediate action to adjust payment may be taken on an acceptable first-party report and on limited types of SSA-uncovered errors in benefit rates or incorrect multiple benefits (GN 02601.023 B.).

A third-party report *always* requires a beneficiary contact before any action. The beneficiary contact will either turn the report into a first-party report or a contested report. A contested report requires a DO written notice to the beneficiary *before* any suspension/termination/reduction action.

Except for the two exceptions listed below, any event uncovered by SSA which may be cause for a suspension/termination/reduction requires a beneficiary contact (in person, by telephone, or by mail) before taking the action. Such events usually involve entitlement factors or work deductions. The two exceptions are: a correction of an error in benefit rates, except to zero, or a termination of an erroneous multiple payment. Both exceptions may be effectuated immediately with a subsequent notice (see GN 02601.023 B.).

02601.026 First-Party Report

AUDIENCE: *CR, FR, SR, BA, BATA, IES, CA, CRTA*

A. Definition

A first-party report is one in which the beneficiary himself, his representative payee, or his agent (see GN

02601.027 D. for definition of agent) supplies information.

B. Action Required

A suspension termination reduction action may be taken immediately upon receipt of the report of an event requiring such action, and prior to furnishing a written notice of our action ONLY if 1. the beneficiary himself, his representative payee, or his agent report the event, 2. there is no indication on the face of the report that it may be inaccurate or that the beneficiary may not understand its effect, and 3. SSA is taking the action no later than 6 months after the month of the report or a development contact made as a result of the report. (See GN 02601.027 E., for action required when a child makes a report.) This action can be taken because SSA assumes that the beneficiary understands the impact of a report (s)he has made and that he expects appropriate action. Any doubt about the validity of a report or about the understanding of its effect must be reconciled by a contact with the beneficiary to verify the report and advise him or her of its effect before any suspension termination/reduction action is taken. An action affecting the receipt of or amount of a benefit which the beneficiary does not expect or of which (s)he is unaware may not be taken. For this reason, if SSA has delayed taking action on a report for more than 6 months after the month the report is made or 6 months after the last contact to develop on some aspect of the report, the information must be reverified with the beneficiary and its effect explained before it may be processed as a valid first-party report.

C. Beneficiary Questions the Effect of a Report

If a beneficiary questions the effect of a reported event or the DO or reviewing office has reason to doubt his or her understanding of a report, the beneficiary must be contacted and the effect of the report explained to him (her). If (s)he agrees that the reported event is correct but does not agree with or approve of its effect on his or her benefits (no substantive issue is involved and the beneficiary is disputing *only* the equity of the law or whether it is constitutional), process the report immediately as a valid first-party report. Advise the beneficiary that (s)he may exercise formal appeal rights on the issue of whether the law is equitable or constitutional. Even though the beneficiary may not be happy with the action, (s)he will not be unaware of or surprised by the stopping or adjustment of his or her checks.

Example:
A student beneficiary writes to the DO to notify SSA of a new address since (s)he was married on May 29 and also states that (s)he intends to remain in school. A reasonable doubt regarding his or her understanding of the impact of the report exists because by the furnishing of a new address and his or her status as a student, it would appear that (s)he expects his or her benefits to continue. Upon contact, the student confirms the marriage and after explanation, (s)he understands that his or her benefits will terminate. However, (s)he disagrees that (s)he is not due a check for May because (s)he was unmarried most of the month. Since there is no substantive issue to be resolved, the DO will input a termination action. The only issue is the beneficiary's belief that the law is unjust. (S)he may, of course, later appeal the termination action if (s)he desires.

D. Beneficiary Questions the Validity of the Report

If a beneficiary questions the validity of a report (whether before or after action has been taken on the report), the issue must be resolved. All such issues must be referred to a DO for contact with the beneficiary. If the issue is resolved in the beneficiary's favor, the DO will act immediately to reinstate or adjust benefits as appropriate if prior action was taken on an incorrect report.

If benefits have not been stopped or reduced, and a substantive issue involving the fact of, correctness of, or date of an event is in question, and the issue is not resolved in the beneficiary's favor, the DO must prepare a determination and give an informal advance notice of our intent to stop or reduce benefits. Follow the same procedures as if it were a contested third-party report (GN 02601.028 and GN 02601.031). If no substantive issue is involved and the beneficiary is disputing only the equity of the law or whether it is unconstitutional, process the report immediately as a first-party report. A written advance notice is not needed.

If benefits had already been stopped prior to the time the beneficiary questions the report and the initial contact with the beneficiary indicates that the issue cannot be resolved without additional development, the DO will reinstate benefits, undertake the development, and diary the case for a prompt followup. If, after all development is completed, the issue is not resolved in the beneficiary's favor, the DO must prepare a determination and give an informal advance notice of intent to stop or reduce benefits. Follow the same procedures as outlined in the preceding paragraph as if the case were a contested third-party report.

If benefits had already been stopped prior to the time the beneficiary questions the report and the district office concludes, as a result of its initial contact with the beneficiary, that further development is not necessary, the district office will simultaneously prepare a determination on the issue and send a notice patterned on the advance written notice in GN 02601.031 C. in advance of forwarding the determination to the reviewing office. A request for reconsideration may be accepted at this point (see GN 02601.028D.). However, if the district office concludes that, as a result of the beneficiary's timely rebuttal or submission of evidence the determination was incorrect or that additional development is required, it will reinstate benefits by the most expeditious means.

02601.027 Essential Elements for a Valid First-Party Report

AUDIENCE: *CR, FR, SR, CA, CRTA, BA, BATA, IES*

A. General

An acceptable first-party report of an event affecting payment must meet all the following tests:

1. It must be complete enough to clearly establish the occurence of an event on which SSA can take a suspension/termination/reduction action; and
2. The report must come from an acceptable reporter; and
3. The proper claim must be identified.

B. Content of Report

A first-party report (GN 02601.026) must contain sufficient unequivocal information for SSA to make a determination of suspension/termination/reduction of benefits. If the beneficiary reports in person or telephones a report of the event, explain its effect on the benefit including any overpayment. If the report is received by mail, assume that the beneficiary understands the effect the report will have *if* the report is complete and there is no reason to question the fact that the beneficiary should understand its impact. Any doubt must be reconciled in favor of contacting the beneficiary (see GN 02601.026 B. and C.).

NOTE: *A report of marriage is* not *complete if it does not contain information to establish whether the marriage was to another beneficiary of a type which would or would not be cause for termination (see GN 02602.460).*

All third-party reports require a contact with the beneficiary, regardless of the content of the report. (See GN 02602.150 for acceptability of third-party report of death.)

C. Form of Report

A report of a suspension/termination/reduction event may be made in person; by mail (Form SSA-1425-SM or any written statement); or by telephone.

If a telephone report does not meet the essential elements test given in A. and B. above or if the interviewer has reservations about the acceptability of the report, mail a proper blank report form to the beneficiary (or representative payee) to complete.

If a report received by mail is not signed, it is not necessary to develop merely to obtain the missing signature unless there is some other reason to question the acceptability of the report.

D. Acceptable Reporter

A report may be accepted as a first-party report only if made by a beneficiary, his representative payee, or agent. A report from any other source is a third-party report requiring verification by telephone, mail, or in person with beneficiary.

An agent is limited to one of the following:

1. beneficiary's lawyer or accountant;
2. competent adult beneficiary entitled on the same earnings record as the beneficiary unless an estrangement is indicated making the assumption questionable;
3. relative, friend, neighbor, or employer if such person convincingly establishes that the beneficiary has requested the individual to report for him (e.g., the beneficiary asks a friend or neighbor to telephone because the beneficiary has no phone or is not able to speak English, or is physically unable to phone or write, or needs assistance because of age or disability).

E. Reports by a Child

To guard against incorrect or inaccurate reports, particular care must be exercised when a child under age 16 makes a report. Therefore, a report by a child under age 16 may be accepted without verification only if he is his own payee and the report affects only his own benefit. All reports by a child under age 16 reporting an event which will affect the payments to another person must be verified with the person (or payee) whose benefits are affected.

A report by a child age 16 or over which affects only his own benefits may be accepted without verification whether or not he is the payee.

F. Identification of Claim

Only the reporter should supply the social security claim number and the name of the beneficiary about whom the report is made. SSA records may be used to supply a claim number only when absolutely necessary (for example, an acceptable agent is reporting for a beneficiary who is ill or hospitalized or is away on a trip and cannot conveniently be contacted for the claim number). SSA records should not be used routinely and DO's must exercise extreme caution when using SSA records because use of an incorrect claim number may result in the wrong benefit being stopped.

If an incomplete report is received in a reviewing office, it must be referred to the DO. The DO should try to obtain verification needed from the beneficiary by telephone. If neither the beneficiary nor the reporter (if the reporter is an acceptable agent) can be reached by phone, notify the beneficiary by mail that the report submitted is not complete and request the necessary information. The DO should retain the incomplete report for possible use in development needed to establish the reported event. The incomplete report may also be used to establish a timely filing of an event which carries a penalty for late filing.

02601.028 Third Party Report

AUDIENCE: *CR, FR, SR, CA, CRTA, BA, BATA, IES*

A. Definition

A third-party report is one in which the information is supplied by someone outside of SSA other than the beneficiary, his representative payee, or agent.

B. Verification Required

Despite a third-party report showing that payments are or are not due, payment will *not* be interrupted until the beneficiary (or his representative payee) has been told of the evidence and has been given an opportunity to confirm or deny the accuracy of the report. All third-party reports received in a DO require a contact with the beneficiary. All third-party reports received in a reviewing office must be forwarded to the DO for contact with the beneficiary. The DO must advise him of the report received and what effect it will have on his benefits. Contact may be made by telephone, by mail, or in person.

C. Beneficiary Verifies the Report

If the beneficiary agrees that the information about the reported event is correct and understand it effects, the report then becomes a first-party report (see GN 02601.026) and an immediate suspension/termination/reduction action may be taken. (GN 02601.023 A.1.). The DO will forward the verification (SSA-795 or SSA-5002) to the reviewing office. Annotate the material to indicate whether the DO has taken action by direct input or include a request for action by the reviewing office.

D. Beneficiary Disagrees with the Report

If the beneficiary disagrees with the information, take the following action.

DO Procedure –The DO must undertake any necessary development to resolve the issue and prepare a written determination on the issue. Even though the DO determines that suspension/termination/reduction is appropriate, such action may not be taken until advance written notice is furnished to the beneficiary. (See GN 02601.032 for action to be taken if the beneficiary or his representative payee fails to respond to or cooperate with our attempts to verify the accuracy of a third-party report of SSA-uncovered evidence.) Prepare the written notice (as described in GN 02601.031 A.- C. in duplicate. Give or send the original to the beneficiary and use the carbon copy for folder documentation. The reason for the advance notice is that since the beneficiary has disputed the issue, he/she is asking us not to take this action in contrast to a first-party report where we assume that the person is asking us to take the appropriate action. The DO will hold the material for 15 days from the calendar date of the notice before taking direct input action or requesting the reviewing office to take action. The notice tells the beneficiary(s) he has 10 days in which to respond but the DO must allow 15 calendar days from the date of the notice to allow for mail delivery before taking action. Send the determination and the copy of the advance notice to the reviewing office (after 15 days). Annotate the material to indicate clearly that the DO has already used direct input or is requesting the reviewing office to take the action.

If the beneficiary responds to the notice within the 15 days (or after 15 days but before the DO has actually input the information or referred it to a reviewing office for action) and presents evidence which changes the proposed DO adverse determination resulting in a decision not to stop or reduce payments, send the reviewing office a revised determination or an RC explaining the resolution for wrong filing in the folder. If the beneficiary presents his rebutting evidence after the 15 days and the DO has already taken the adverse action, prepare a revised determination and send all the information to the reviewing office for necessary action by the reviewing office to reverse the suspension/termination/reduction as appropriate.

If the beneficiary responds to the 10-day notice but the DO, after weighing all evidence presented, determines that benefits should be stopped, take the necessary action (via direct input or manual action as appropriate). If the beneficiary has appeared in person in the DO with his evidence, inform him that his benefits will be stopped and that he will receive a formal notice to that effect. A request for reconsideration may be accepted from the beneficiary at this point, if (s)he desires further review, even though the beneficiary has not received his formal notice of suspension/termination/reduction. Forward the request for reconsideration to the reviewing office with the DO determination annotated to show if benefits were suspended by direct input and the date of such input.

E. Beneficiary Disagrees With the Effect of the Report

If the beneficiary agrees that the facts of the reported event are correct but does not agree with its effect (no substantive issue is involved and the beneficiary is disputing *only* the equity of the law or whether it is constitutional), process the report immediately as a valid first-party report. Advise the beneficiary that he may later file formal appeal rights on the issue that the law is unfair (see GN 02601.026 C.). Do not furnish an advance notice of the suspension/termination/reduction action as this action is now a first-party report.

F. Summary of Disputed Third-Party Report Actions

If the beneficiary successfully rebuts the evidence of a reported event, the benefit will not be stopped or adjusted. If the adverse action has already been taken, it will be reversed.

If benefits were stopped and further development (beyond initial contact) is needed to resolve the issue, benefit must be reinstated or readjusted pending the development. Once reinstated, they cannot be stopped or adjusted again without advance notice.

If the beneficiary cannot successfully rebut the evidence of a reported event, the DO must prepare a formal determination on the issue and send the beneficiary an informal advance notice before any suspension/termination/reduction action may be taken. Formal notice of such action will be sent by the reviewing office.

If, after receiving the informal notice, the beneficiary appears in person with his evidence but the DO still feels that their determination is correct and that a stop or reduction action is in order, take the action. If the beneficiary indicates he wishes to protest further, do not put him to the inconvenience of waiting for receipt of the formal notice from the reviewing office and returning again to the DO for the sole purpose of filing a request for reconsideration. Accept the request for reconsideration on the spot and forward it to the reviewing office with the DO determination and a copy of the advance notice giving information about the DO suspension/termination/reduction action.

Once the determination has been made to suspend, terminate, or reduce benefits, the advance notice has been given, the 10-day rebuttal period has expired, and any rebuttal evidence has been considered, take the action. Do not continue or reinstate benefits if the beneficiary subsequently protests or requests a reconsideration. Title II benefits are not continued while a reconsideration is pending (GN 02601.022).

If the beneficiary verifies a third-party reported event and disagrees only with the law itself (no substantive issue is involved and the beneficiary is disputing only the equity of the law or whether it is constitutional), process the report as a valid first-party report. No written advance notice is necessary.

See GN 02601.031 for development if beneficiary fails to cooperate or furnish information requested.

See CM 7500ff. concerning potential fraud or program abuse.

G. Reviewing Office Procedure

The resolution of all third-party reported events must be documented in the claims folder. If the DO resolves the issue in the beneficiary's favor, information to that effect will be sent to the reviewing office for filing. No further action is necessary. If, however, the DO rules against the beneficiary, they must prepare a determination to that effect and forward it to the reviewing office with a copy of the advance notice sent to the beneficiary and a request for the appropriate reviewing office action or with information showing the direct input action taken by the DO. *Do not* take any action to stop or reduce a benefit, as requested by a DO, unless the DO has furnished a copy of the advance notice given to the beneficiary, and a determination on the issue. Return the case to the DO for proper handling.

If the DO or reviewing office has already incorrectly taken a stop or reduction action without an advance notice, reinstate benefits and request the DO to make the determination and give advance notice as required in D. and E. above.

02601.029 Events Uncovered by SSA (Not Reported by First- or Third-Party Reports)

AUDIENCE: *CR, FR, SR, CA, CRTA, BA, BATA, IES*

A. Definition

There are numerous situations in which SSA becomes aware by means other than a reported event from a first or third party that a beneficiary may be receiving an incorrect payment amount or a payment for which he is not eligible. Such situations include the discovery of erroneous multiple payments (e.g., widow's benefits were not terminated when a primary benefit was awarded and both benefits are being paid); reduction in benefits is in order because original computation was incorrect; earnings record adjustment results in benefit reduction; adverse claimant coming on the rolls; clerical error by SSA necessitates an adjustment in payment; subsequent review of the claims folder disclosed a questionable entitlement factor; or the automated enforcement programs such as the Annual Earnings Test Enforcement Operation (ARTO) and Terminations, Attainments and Student Enforcement (TASTE) reveal a possible cause for deduction, suspension, or termination.

As explained in GN 02601.023 B., there are only five situations (excluding first-party reports) in which payments may be stopped immediately without prior notice. These are situations involving the death of the beneficiary; ubdeliverable checks; death of the representative payee; erroneous multiple benefits; and incorrectly computed benefit rates uncovered by SSA (as long as the payment is not completely stopped). All other situations require advance notice before payment may be adjusted or stopped. This includes those situations in which an entitlement factor is at issue and a determination on the evidence may result in a reversal of an original award of disallowance (see below) and adjustments in payments caused by the addition of an adverse claimant (see 4570ff.).

B. Special Automated Enforcement Programs

The automated programs for earnings test enforcement, student child processing, and foreign enforcement meet the basic rules for adjustment or stopping payment

as set out in GN 02601.023. That is, benefits are not adjusted or stopped without a prior notice to the beneficiary. However, the procedures for handling automated enforcements do differ somewhat from other non-automated SSA uncovered events. For example, notices (both advance and subsequent) are sent out from the reviewing office in most cases.

Follow the procedures in CM 5100 ff. for earnings test enforcement and CM 377-381 for the student program. In these automated programs, if the beneficiary protests our proposed action, payment will be continued until a determination on the issue is made by the DO or the reviewing office.

C. Reviewing Office Procedures-(Nonautomated Enforcements)

Incorrectly computed benefit rates may be corrected immediately with a subsequent notice to the beneficiary so long as the change does not reduce the payment to "zero."

If the issue involved in other suspension/termination/reduction issues is not subject to conflicting interpretation and the reviewing office has sufficient information with which to make a formal determination, the decision for the suspension/termination/reduction may be made without requiring a DO contact with the beneficiary for verification. However, the suspension/termination/reduction may *not* be effectuated until a determination on the issue has been written and the beneficiary has been put on notice. The notice will be sent by the reviewing office to the beneficiary explaining the basis for the suspension/termination/reduction, the effective date and appeal rights. The action will not be effectuated until 30 days after the date of the notice to the beneficiary. If an overpayment is involved, follow procedures in GN 02201.055.

If the issue involved is subject to conflicting interpretation or the reviewing office does not have sufficient information on which to make a determination, forward the information to the DO for the same development as required under third-party reports (GN 02601.028 ff.). Benefits *may not* be suspended pending the DO investigation.

D. DO Procedures-(Nonautomated Enforcements)

If the DO becomes aware of an unreported circumstance which would affect the benefit or receives a case from a reviewing office per C. above, contact the beneficiary for reconciliation of the issue. Benefits *may not* be suspended pending investigation.

If the beneficiary, when contacted, files a first-party report, suspension/termination/reduction action will be taken per GN 02601.026. In all other situations, the DO will make a determination on the issue and will notify the beneficiary in writing of any proposed suspension/termination/reduction action *before* the action is taken, the same as for a contested third-party report (GN 02601.028–GN 02601.029).

02601.030 Reversal of an Award or Disallowance

AUDIENCE: *CR, FR, SR, BA, BATA, IES, CA, CRTA*

Under the rules of administrative finality, SSA may correct an error in an initial determination. However, a reversal of an award to a disallowance cannot be implemented until the beneficiary has been given the same due process procedures required for a termination action.

When SSA becomes aware of a potential entitlement error and undertakes development to determine the issue, *benefits may not be stopped pending the investigation.* All determinations in such cases are made in the reviewing office (usually after development by the DO) and all notices are sent out by the reviewing office. See GN 02601.029 C. above for instructions where the reviewing office may process without referring the case to the DO for a personal contact.

Example:
In reviewing a DOFA case, the reviewing office finds evidence in the file that a child beneficiary may not be the child of the W/E and may not be entitled to benefits. It appears that a disallowance may have been in order rather than an award of benefits. The evidence in the file, while not conclusive, is strong enough to warrant reopening the claim under the rules of administrative finality. There is nothing in the file to indicate that the representative payee (the child's mother) was ever questioned on the issue. This issue may be subject to conflicting interpretation and the reviewing office does not have sufficient evidence on which to base a written determination. The case must be sent to the DO for a beneficiary contact. *The reviewing office may not suspend benefits pending the development.*

The DO will secure the necessary development but since this is a possible claim denial rather than a termination event, the DO will not make a formal determination or take any stop-payment action but will forward all development to the reviewing office for the formal determination and notices to the claimant. *If the reviewing office determines that the claim should have been denied rather than awarded or that benefits should be terminated at some point after the date of entitlement, the reviewing office will send an advance notice to the beneficiary (see GN 02601.029 C.) informing the beneficiary of SSA's intentions to stop payment.*

02601.031 Notice Required Prior to Taking Action to Stop or Reduce Benefit on a Contested Report

AUDIENCE: *CA, CRTA, CR, FR, SR, BA, BATA, IES*

A. General

If the beneficiary contests a first-party or a third-party report of an event requiring suspension/termination/reduction, the DO must prepare a formal determination on the issue for folder documentation if the DO plans to stop or reduce benefits. In addition, before taking the suspension/termination/reduction action, the DO must give the beneficiary a written notice of the intended action (see GN 02601.026 D. and GN 02601.028 D.).

The notice must provide a brief summary of the evidence on hand and inform the beneficiary that he has 10 days in which to respond before action will be taken to suspend/reduce/terminate benefits. The beneficiary has 10 working days from the date of the notice to respond but the DO must allow 15 calendar days from the date of the notice to allow for mail delivery before actually taking the action. Also, where the beneficiary resides outside the U.S., the 15 days limit may be extended to provide a reasonable time for the notice to be received by the beneficiary and a reply to be received by SSA. For notices going to beneficiaries in the Northern Mariana Islands (NMI) additional time limits may be established as required by the SSA field office in Agan, Guam.

It is not necessary to give appeal rights because this notice is not the formal notification. That will be issued by the reviewing office after the action has been taken and will give the full explanation and appeal rights. The only purpose of the informal notice given by the DO is to alert the beneficiary to our proposed course of action so that the suspension/termination/reduction action will not come as a surprise. In addition, it gives the beneficiary a final opportunity to rebut *before* his benefits are actually stopped or reduced (once the action is taken, he has appeal rights, of course, but his benefits will be stopped).

B. Form and Content of the Informal Advance Notice

The notice, prepared in duplicate, must be in writing but since it is informal, the format can be flexible. It must clearly state that in 10 days we intend to take action to suspend/terminate/reduce benefits of all affected beneficiaries based on the information we have unless he/she can present evidence to rebut the information.

C. Sample Letter

On DO letterhead, use language such as suggested below:

"Based on *(specify the information we have received* which establishes that *you were married on ; you were divorced on ; you do not have an entitled child* in your *care; you are no longer a full-time student; etc.)* your benefits *(and the benefits for (affected auxiliaries))* will be *(suspended/terminated/reduced)* "Action which will result in *(suspension/termination/reduction) of benefits will be* taken 10 days from the date of this letter unless you can present evidence to rebut the above information."

Add standard phraseology to write, phone, or visit DO, etc.

The original copy of the notice is forwarded to the beneficiary and a copy is sent to the reviewing office with the special determination (see GN 02601.028 D.

D. Reviewing Office Action

Do not take any action to stop or reduce benefits as requested by the DO unless the DO has furnished a copy of their informal advance notice (see B. and C. above). See GN 02601.028 D. 2. for procedures if the DO has already input a stop or reduction action.

02601.032 Beneficiary Fails to Cooperate or Furnish Information Requested

AUDIENCE: *CR, FR, SR, CA, CRTA*

A. General

The failure of the beneficiary to furnish information needed to determine whether or not an event has occurred which would affect the right to, continuation of, or the amount of a benefit shall subject such benefit to deduction, suspension, or termination as the case may be (Regulations No. 404.701).

B. DO Procedure—Nondisability Issue

If, after what the DO determines to be a reasonable time under the circumstances in the individual case, the beneficiary fails to respond to or cooperate with our attempts to verify the accuracy of a third-party or SSA-uncovered event, the DO will prepare a determination that the reported or uncovered event is considered to have occurred. The DO's efforts to secure information from the beneficiary will be included in the determination (see D. below if beneficiary has a representative payee).

The required DO informal notice will then be sent to the beneficiary advising that, based on the reported or

uncovered event, action will be taken to stop or adjust benefits 10 days from the date of the notice.

Fifteen days after the date of the letter (5 days allowed for mail delivery), the DO will take the action required to suspend/terminate/reduce benefits (via direct input or manual action, as appropriate). Forward the determination on the issue and the duplicate of the letter to the beneficiary to the reviewing office for action or filing in the claims folder. If the DO used direct input to suspend/terminate/reduce, annotate the bottom of the duplicate notice to show that the benefit was suspended/terminated/reduced via direct input and the date.

C. DO Procedure-Disability Issues

If an unresolved continuing disability issue is involved in any case where a beneficiary fails to cooperate or cannot be located, a disability determination is required.

D. Representative Payee Fails to Cooperate

Failure of a representative payee to cooperate to determine the accuracy of a third-party report raises a question as to his suitability to continue as payee. One of the duties of a representative payee is to report events which may have a bearing on the beneficiary's right to continued payment.

If the representative payee is a legal guardian or payee of a child under age 16, do not attempt to contact the beneficiary. Resolve the issue with the payee. If such representative payee fails to cooperate, the DO will send him the required informal notice and proceed as in B. above. If the representative payee, however, is not a legal guardian and if the beneficiary is age 16 or over, proceed as follows *before* stopping payment:

1. BENEFICIARY'S WHEREABOUTS ARE KNOWN

If the DO can determine the beneficiary's address (without asking the reviewing office for folder review), contact the beneficiary to determine whether, in fact, payment should be continued and, if so, whether a substitute payee should be sought.

In the unlikely event that the beneficiary also refuses to cooperate in resolving the issue, send both the beneficiary and his representative payee the required advance notice of our intent to stop payment (see B. above). If neither the beneficiary nor the representative payee responds to the advance letter of intent, the DO will take the action required to stop payment and then send the required documentation to the reviewing office for filing in the claims folder.

2. BENEFICIARY'S WHEREABOUTS UNKNOWN

If the representative payee will not respond to the DO's request for information *and* the DO cannot locate the beneficiary, send the required informal notice to the representative payee advising that based on the reported event, action will be taken to stop payment 10 days from the date on the letter. If there is no response within 15 days, the DO will take the action required to stop payment and send the required documentation to the reviewing office per B. above.

The reviewing office, upon receipt of the information, will review the folder to determine if there is any possible address on record at which the beneficiary may be contacted or the name and address of any person who might supply any information concerning the beneficiary's or a lead for a possible new payee. Any such available information will be sent to the DO. Since payment in these cases has been stopped, this folder review should be done as quickly as possible.

E. Direct Deposit Beneficiary Cannot Be Located

When a beneficiary authorizes direct deposit, he is advised to notify SSA of any subsequent change in home address. If attempted contact reveals that a "direct deposit beneficiary" has moved from the mailing address of record, the DO must make an effort to locate him. This effort will be limited to requesting a current address from the postmaster, and the beneficiary's financial organization unless it is known that the financial organization objects to such a request. If a current address cannot be located, document the effort to locate, prepare a determination that the reported or uncovered event is considered to have occurred, and stop or adjust benefits immediately. Send the documentation and the determination to the reviewing office to be filed in the claims folder. Do not send an informal advance notice.

F. Reviewing Office Procedure

AUDIENCE *CR, FR, SR, BA, BATA, IES, CRTA, C4*

Upon receipt of a DO request for suspension/terminated/reduction based on a DO determination that a reported or SSA-uncovered event shall be applied because of the failure of the beneficiary to cooperate or because he cannot be located, the reviewing office will take the appropriate action and send the required notice to the beneficiary and/or his representative payee explaining the suspension/termination/reduction. In the case of direct deposit beneficiaries whose current address cannot be located, the PSC's will send the notice to what appears to be the best available address for the beneficiary. If the notice is returned, the PSC will also list the case under Code 538 (Direct Deposit-Correspondence Address Required). See D. 2. above if the DO could not locate a beneficiary with a representative payee.

Role of the District Office

02601.040 Responsibility

AUDIENCE *CR, FR, SR*

Postadjudicative activities are a major part of a district office's responsibility. The prompt initial adjudication of

claims must be complemented by equal attention to continuing payment services. Care should be taken to make sure that all postentitlement actions are taken promptly and accurately. Incorrect and delayed notices can result in delays in benefits and service hardship to the beneficiary.

02601.060 Techniques for Prompt Processing of Postadjudicative Actions

AUDIENCE: *CR, FR, SR, CA, CRTA*

A. Use of Correct Claim Number

In processing beneficiary notices or reports, one of the most important items to retrieve carefully is the claim number (the social security number and claim symbol.) Since reviewing office records and the Master Beneficiary Record (MBR) are filed by number, we cannot stress enough the need for checking and rechecking the claim number. Use of an incorrect claims symbol or error in the number itself can cause action affecting the wrong beneficiary and thereby results in hardship to both beneficiaries. If the file cannot be located, additional delays are caused by reviewing office requests to the district office for correct information. Also, keep in mind that any cross-reference claim number(s) should be annotated on postadjudicative correspondence in multiple entitlement situations.

DO records may be used to insert a claim number on a beneficiary notice if the DO can not obtain enough information from the notice or from the person making the report to make a positive identification of the proper beneficiary record. Addresses, amounts and types of benefits, dates of births, names of spouses and other beneficiaries are items which can be used to make sure that the correct record is located.

It is important to show the claim number on all correspondence sent to reviewing offices. Even through the SSA-795 (Statement of claimant or other person) calls only for the social security number, the full claim number should be used when postentitlement actions are involved.

B. Proper Routing of Material

Every district office employee has been given an individual listing of reviewing office jurisdictions and should make full use of this valuable tool. Misrouting of claims material is a continuing problem and cause for delay which can be avoided simply by frequent reference to this listing. Reliance should not be placed on the mail clerk to see that proper routing is accomplished.

All forms sent to the reviewing offices should show the reviewing office designation. The appropriate designation should be circled on forms on which the reviewing office identification is printed. On all other forms or correspondence the reviewing office should be identified by writing the designation in red on the upper right-hand corner of the material. Route slips should not be used for this purpose. In determining the proper destination a careful check should be made of the claim number and the address of the claimants or beneficiaries since misrouting frequently occurs when disability or foreign claims material is involved. It is particulary important that the proper destination be reflected on all outgoing mail. Items which cannot be redirected by the reviewing office will be returned to the district office.

The microfilm records and many other computer produced beneficiary forms contain a numeric code which show the reviewing office having jurisdiction. These codes can assist DO's in routing material properly. The codes are:

1–Northeastern PSC
2–Mid-Atlantic PSC
3–Southeastern PSC
4–Great Lakes PSC
5–Western PSC
6–Mid-American PSC
7–ODO
8–Division of International Operations

C. Complete Notices and Reports

Notices and reports being forwarded to reviewing offices should contain all the facts needed to process the required actions. For example, in response to beneficiary requests for waiver in overpayment cases, insure that all development pertaining to "without fault" and "financial hardship" or "against equity and good conscience" is completely documented before forwarding to the reviewing office.

D. Duplicate Notices and Unnecessary Notices

Duplicate notices should not be sent to reviewing office unless current policy requires that a specific document be forwarded. A second notice may stop action on the first notice in process until the duplicate is associated with the file. If it is necessary to send a duplicate notice it should be clearly marked "DUPLICATE OF NOTICE SENT_____." Notices that are obviously unnecessary should not be sent to reviewing offices. For example, normally annual reports received from beneficiaries age 73 or older are unnecessary and should not be forwarded to the reviewing office.

02601.075 Furnishing Report Cards

AUDIENCE: *CR, SR, FR*

Beneficiaries should be encouraged to route their notices through district offices. Except for DIO, reviewing

offices no longer include reporting cards with award notices and postentitlement letters. Claimants are given the appropriate reporting forms bearing the DO address at the time of the interview. Each beneficiary who visits the district office should be given new reporting cards addressed to the district office and told to discard any reviewing office addressed cards he may have. The SSA-L526 (Acknowledgement Letter) should be used to acknowledge receipt of mail notices and to send district office addressed reporting cards to the beneficiary. If the beneficiary lives in or is moving to another service area, that district office's address should entered on the reporting cards. DO's should review all report cards for completeness before forwarding to the reviewing office.

Role of the Benefit Authorizer

02601.100 Mission of the Post-Entitlement Technician

AUDIENCE *BA, BATA, IES*

The Post Entitlement Technician is primarily responsible for administering those provisions of the Social Security Act which deal with continuing eligibility. In certain cases, the Post-Entitlement Benefit Authorizer (BA) will also make entitlement determinations. These actions are taken after the claimant's initial entitlement has been established. Most post-entitlement activity arises from changes in family structure because of death, divorce, adoption, school attendance, etc., and from the administration of the retirement test provisions of the law.

Post-Entitlement (E) is concerned with accurate processing and the time related to the payment of continuing benefits. Notices which require suspension, termination, reinstatement and adjustment of benefits must be handled accurately and promptly. For many beneficiaries, the prompt receipt of the 20th or 200th monthly benefit check is as important as the prompt receipt of the first check. Management being aware of this responsibility is constantly seeking new ways and means of improving post-entitlement operations.

Once a case has to be reworked because of inaccruate processing, time is lost, costs increase, and payment is delayed.

In view of the sheer volume of post-adjudicative actions processed annually, it becomes clear that PE is substantially involved in carrying out the major goals of the social security program.

02601.115 General Information

AUDIENCE *BA, BATA, IES*

It is the responsibility of PE to record those awards which cannot be established through automated computer processes and, more importantly, to analyze and make determinations on those accounts already established for which post-adjudicative action is indicated by a beneficiary report or a computer selection process. These determinations regarding the payment or "stop payment" of benefits, the amount of benefits payable, the finding of underpayments or overpayments, or the imposition of penalties, are in most cases covered by a written procedure in this manual which is based on the Act, as amended, and a various policy interpretations thereof.

While most situations are covered by a specific procedure, it would be impossible to define precise instructions for every possible set of circumstances. The variety inherent in post-adjudicative activity is unending and is responsible for making PE one of the most important processes in the program center. BA's must take each case as a separate action, for the slightest difference in facts relating to the case can change the entire nature of the action. As these instructions are not intended to cover in detail all the variations of the situations which may arise, the exercise of sound judgement and discretion is required of all BA's.

In making determinations, certain steps are required. What is the present status of the account? Examination of the case in this respect must include a reference to payment status, as well as age of the beneficiary, whether the primary or any auxilary beneficiary is working, whether any underpayment or overpayment exists on the account, and whether HIB and/or SMIB entitlement is involved. Other factors may also have impact, such as a change of address for some, but not all beneficiaries on the account.

Secondly, what effect should result from the determination? That is, should benefits be started, suspended, terminated, adjusted, etc. This is the step that can usually be found in procedure once all of the factors relating to status have been examined. In additions, what effect does an action for one beneficiary have on the status of other beneficiaries? For example, while some suspension or termination events will affect all beneficiaries on the account, others might only involve the termination of one beneficiary which results in an increase of benefit rates for remaining beneficiaries. In most cases, these situations are covered in specific procedures.

Once the determination has been made with respect to the necessary action, the proper forms must be completed and coded to effectuate that action and record it on the MBR. Though recording almost all actions on tape in a manner acceptable to the EDP system complicates the summarization and coding aspects of the post-entitlement ob, it must be recognized that an automated and/or semi-automated computer system is the only feasible means of paying millions of benefits each and every month. It must also be remembered that there are judgmental areas on a case that only a human can properly evaluate.

Lastly, it is the BA's job to inform the beneficiary of the determination made on his case. While the prompt issuance or stopping of a benefit check can be construed as

being of primary importance, such action taken without a thorough explanation of the reason for the action can result in inquiries to the district office or program center that serve only to complicate the issue and increase the cost of handling the action.

02601.155 Case Disposition

AUDIENCE: *BA, BATA, IES*

A tradition has been established whereby the authorizer will annotate the document or notice which served as the basis for the PE action with a brief description of the action taken, his initials (and unit or modular number) and the date of his action. For example, he might show "SSA-2795, Cert 30, ETG C12-44,4/30/81". The annotation should also include the fill-in information required for exhibit letters or standard paragraphs when such fill-in information will not fit in the space provided on the SSA-2795-U2 (Determination of Resumption of Benefits). Annotation of the source document has several advantages. It can serve to reflect that an action was initiated by the benefit authorizer on a certain date. In addition to documenting the folder, a case disposition is often useful when payment forms become separated from the claims folder after completion of the action; therefore, the MBR may reflect a status not documented in the folder.

02601.190 Post-Entitlement Activity

AUDIENCE: *BA, BATA, IES*

Regardless of the source of the cases received by the benefit authorizer, activity in this area will follow certain prescribed courses. A determination will be made with regard to the current status of the case and the action necessary based on a "source document."

Sections PEM 215 through 248, and POMS, GN 02601.000 through GN 02607.200 cover the "basic theory" behind postentitlement activity (e.g., who may be terminated as a result of a particular event.). These sections also attempt to define the various types of actions taken by the benefit authorizer. These chapters will be the basis for most PE activity, though the specific technical procedures required for EDP processing are covered in PEM, chapters 300 and 400. Specifically, PEM, chapter 200 and GN 02601.000 through GN 02607.200, will describe "what to do" with respect to awards, adjustments, suspensions, etc. The "how to do it" will be covered in PEM, chapters 300 and 400.

However, since certain types of benefits or provisions of the Act involve such a variety of rules and regulations they have been given only surface treatment in the PEM 200 chapter and POMS, GN 02601.000 through GN 02607.200. Separate chapters have been designated for a full discussion of the subject. Examples of these are the Special Age 72 Payments, the Annual Retirement Test Provisions, etc. These are solely "what to do" chapters; the "how to do it" will always be found in chapters PEM 300 and 400.

In addition, GN 02601.220 and GN 02601.240 have been set aside to describe the operating month concepts which are basic to Post-entitlement and MADCAP processing.

Operating Month

02601.220 Concept

AUDIENCE: *BA, BATA, IES*

The term operating month may be defined as a fixed period of time during the month in which all operations related to the initiation, adjustment, suspension or termination of benefit payments must be accomplished in order to effect an action for that month. The dates surrounding the fixing of this period are tied to the fact that the majority of benefit checks are paid on the third of the month. The operating month usually runs from the 26th of one month to the 25th of the following month. During this period, material is being processed and accumulated in the Central EDP system for delivery to the regular transcript.

Individual component cutoffs (e.g., Benefit Authorizer, the computer room operations, etc.,) are established by working back from the date Treasury turns over the checks to the Post Office and determining the latest time by which an operation must be completed in order to effect an action for the current month. For example, in establishing the date the benefit authorizer must cutoff for a particular operating month for MADCAP cases we would begin by working backwards from the due date of the checks. The Post Office is allowed 2 days for final handling and getting checks from the disbursing center city to the local Post office; the Treasury disbursing center city is allowed 2 days for their handling and final "Clean up" operations, 1 day is needed for the final Central Office computer operations and delivery of the data from the program service centers to the disbursing centers; 1 day is allotted for data transmission to Baltimore, for central processing. One day is normally allowed for processing in the Holding File Operation. Therefore, 7 working days are needed to complete final processing and effect an action for the current month after the benefit authorizer cutoff. Assuming a check delivery date of the third of the month and excluding Saturdays, Sundays, and holidays, the benefit authorizer cutoff for MADCAP cases would normally occur about the 18th of the month. Barring any major backlog, the case would normally be delivered to the next station 1 day later.

02601.240 Relationship to MADCAP Processing

AUDIENCE *BA, BAFA, IES*

Program service center cutoff scheduling determines the current operating month (COM) for the benefit authorizer, the final data entry dates and the date for final delivery of transaction data to the Treasury disbursing center for direct input material and MADCAP actions. These actions are more readily controlled since direct input material and MADCAP actions continue to flow without interruption; once the final cutoff has been reached for the current month, the next day's actions are simply processed for the following month. Since the EDP system determines the month of payment and/or stop payment, there is no need to provide strict control to insure that the action is processed in a particular month. However, MADCAP actions which are processed subsequent to the month in which the cases were initiated by the benefit authorizer will bear an annotation of "Missed Cutoff" on the SSA-L107 (Processing Discrepancy Reconciliation.)

During any particular operating month, there are always two types of accruals processed; they are described as being either prior month accruals (PMA's) or current month accruals (CMA). The benefit authorizer will enter the acronym "CON" (continuing) in the "TO" column of the MADCAP input from SSA-2795 U2 (Determination of Resumption of Benefits) for the continuing monthly rate and LAF status of the payment (PIC). Based on this entry, the MADCAP system will determine the proper accrual month, stop payment month and/or overpayment/underpayment amount. Additionally, the system may change the action block type (ABT) shown on the forms SSA-2795 U2 from the deferred status to current pay status (or vice versa) if the action is processed subsequent to the month in which the case was initiated by the benefit authorizer.

As an illustration, if a case was processed on July 1, (which would be in the July operating month) June would be the PMA month, July would be the CMA month. The month usually changes around the middle of the calendar month therefore, in the example, July 25 would be in the August operating month, with July as the PMA month and August as the CMA.

Processed debit records are located in two separate parts of the EDP system depending on the mode of processing and how much time has elapsed since the action was initiated. These "reference points" are the Post-Entitlement Scheduling Operation (PESO) system) and the Master Beneficiary Record (MBR).

A. PESO

The Post-Entitlement Scheduling Operation (PESO) receives on a daily basis, data submitted by the program service centers or generated within the EDP system and performs the following functions:

1. Controls the scheduling of processing.
2. Validates each action and performs daily updating of the action with the MBR and/or existing data within the system to determine if the action is completed processable;
3. Creates payment if a Prior Month Accrual (PMA) payment if applicable;
4. In effect then, the "PESO MBR" serves as the most recent and reliable record for those records where a recent action has been taken to change the established MBR and that action has not yet been applied to the master file.

B. Master Beneficiary Record

The Regular Transcript File (MBR) is defined as the permanent record of all active benefit records. Ultimately, all porcessed actions are annotated to the MBR for ongoing maintenance. Due to its size, the Regular Transcript is divided into segments based on social security number sequence and additions, deletions, and other changes are *updated* to the Regular Transcript *on a monthly segmented basis*.

Award processing Operations (APO) Input Awards and all DIB-RIB computer conversions as well as processed post-intitlement actions are recorded in the PESO system and updated to the Regular Transcript in the month in which they are processed or the following month, depending on processing requirements. For these debit actions, the month of update to the MBR is shown in the "Update Month" space on the output forms.

Definitions

02601.280 Definitions Related to Post-Entitlement Determinations

AUDIENCE *BA, BAFA, IES*

Certain determinations required of the benefit authorizer are based on checking factors of entitlement. These determinations will usually, though not always, relate to termination and/or "entitlement conversion" actions. Where such factors are material, they are listed in the particular section of the procedure and a cross-reference is provided to this section. When the facts are in doubt, the benefit authorizer may refer the case to the claims authorizer for a determination unless the specific procedure outlines some other action.

A. Attainment of Age

An individual attains a particular age on the first moment of the day *preceding* the anniversary of his birth. This rule, which is based on established legal interpreta-

tion, becomes significant for the Social Security Administration when dealing with an individual who is born on the first day of the month.

Examples:
A woman born on 7/01/09 attained age 62 on 6/30/71.
A child born on 8/01/54 attained age 18 on 7/31/72.

B. Proof of Date of Birth

If proof of date of birth has been established, the latest award form in file for that beneficiary should reflect a notation in item 11, such as "E attains age (62), (65)," or a "B", "C", "F" or "Q" annotation to the right of the DOB in items 6 for HA, B2, B5, B7, E, BK, BL or CDB beneficiaries.

If the claims authorizer determines that proof of date of birth has been established and there is no PE action required, the claims authorizer will refer the case to the coding operation to record the proper annotation on the MBR via the MISCOR facility. However, if a PE action is to be accomplished at the same time, the benefit authorizer will record the appropriate annotation on the MBR by using the account and benefit change record (RID 7) of the MADCAP input form.

C. Fully Insured Status

Fully insured status may be determined by checking item 4 of the award form in file (divident entry). If the entry is blank or reflects "TRANS BEN" or "SPEC BEN," the account is uninsured, transitionally insured, or insured for special age 72 payments, respectively. If the entry reflects "MIN BEN" or money amount, fully insured status may usually be assumed. However, for E to D Conversion, the "Has" QC's are less than the required QC's on the E award, refer the case to a claims authorizer in order to determine fully insured status.

D. Living in the Same Household

Assume that the wage earner and the widow(er) were living in the same household at the time of death if their checks prior to the month of death were being sent to the same address. The same assumption may also be made if both were not in benefit status in the preceding month providing the file contains no evidence indicating they were living at different addresses at the time of death.

In temporary separation cases, the criteria that is used in determining "living in the same household" is the "intent" to continue to live together in the same place. For the purpose of determining whether a lump-sum is payable when preparing automatic D award a determination of "living in the same household" may be established by the benefit authorizer in certain instances when preparing automatic D awards where the absence was 6 months or less and there is no indication that the parties did not intend to resume living together.

The instances are as follows:

1. Absence because of military service.
2. Absence because of employment (this applies, for example, where the wage earner's or spouse's employment requires travel (e.g., traveling salesman, merchant seamen, etc.) or the NH is engaged in a temporary or seasonal activity).
3. Absence because of confinement in a hospital or other curative institution.

Where the separation appears to be of a temporary nature (approximately 6 months or less) or a spouse under the invalid marriage provisions survives (these cases will be recognized by a notation in item 6 of the award form under "Type of Claim" by the code "DF"), and a determination of living in the same household cannot be made under the above guides, termination action should be taken and the case referred to the Claims Authorizer for appropriate action.

A presumption of "living in the same household" cannot be made if either the A or B had a representative payee. This is true even though the checks were sent to the same address. An award of monthly benefits to the widow may be prepared (unless, of course, her deceased husband had been receiving benefits on her behalf) omitting the lump-sum death payment. In this instance, the case should be referred to the claims authorizer for their determination on the lump-sum death payment.

In all other cases in which a determination of "living in the same household" cannot be made under the above guides, prepare the award to the widow(er) and with a form SSA-5075 (Request for District Office Assistance), request the district office to "develop living in the same household - lump-sum payment withheld." No diary control should be maintained in these cases.

E. Definition of an Adjustment Action

An adjustment action is any action taken to alter the payment status or any factor directly related to the payment of benefits, on a record previously recorded.

F. Definition of a Suspension, Deduction, or Interruption or Payments

A suspension, deduction or interruption of payments is the withholding of benefits; it does not alter the entitlement to benefits, but simply stops payment for a period on a temporary basis. These actions imply a lack of eligibility rather than a lack of entitlement.

G. Definition of a Termination Event—Termination of Entitlement

The deduction and nonpayment provision affect a beneficiary's eligibility to receive payment for a given period, but do not affect his continuing entitlement.

True termination events are those which end a beneficiary's right to receive benefits on a particular E/R per-

manently or until a new period of entitlement is established by a new application.

H. Definition of a Termination Action

A termination action is the permanent stopping of benefit payments on a particular SSN for a specific reason which is recorded on the tape record.

A termination may affect only one beneficiary on an SSN, or it may apply to all beneficiaries. See PEM 325.03(f).

For the purpose of terminations and related determinations, an individual attains a particular age on the first moment of the day preceding the anniversary of his birth. This rule is based on established legal interpretation. (For example, a C1 with a date of birth of 6/1/62, attained age 18 on 5/31/80.).

★U.S. GOVERNMENT PRINTING OFFICE 1989 241-323/05046